

REMARKS/ARGUMENTS

Reconsideration and allowance of this application are respectfully requested.

Currently, claims 27-28 and 30-33 are pending in this application.

By this Amendment, claims 27-28 and 30-33 have been rewritten in independent form. Entry and examination of these claims is therefore in order.

Request For Interview:

Applicant has attached hereto an Interview Request Form. Applicant would greatly appreciate the opportunity to discuss the present application with the Examiner during an interview.

Election:

Applicant respectfully traverses the Election/Restriction requirement. In particular, Applicant respectfully disagrees with the Office Action's holding that claims 27-28 and 30-33 are not directed to the elected species of Figs. 2-3.

Claim 27 depended from (now canceled) elected claim 2, and has now been rewritten in independent form. The additional claim limitation required by claim 27 (beyond those of now canceled claim 2) requires that the predetermined time represents a period of time beginning at a start of the engine and ending at a time that the negative pressure of an intake pipe reaches a predetermined value. Claim 28 depended from (now canceled) elected claim 2 and has now been rewritten in independent form. The additional limitation required by claim 28 (beyond those required by now canceled claim 2) requires that the predetermined time represents a period of time beginning at a start of the engine and ending at a time that the negative pressure of a brake booster reaches a predetermined value. Claims 30 and 31 require limitations similar to that of claims 27

and 28, respectively, and have now been rewritten in independent form including the limitations of (now canceled) elected claim 29.

Claims 27-28 and 30-31 are directed at least to the elected species of Figs. 2-3. For example, page 23, line 22 to page 24, line 12 of the specification explicitly states the following (emphasis added):

“The ignition timing control program shown in **Fig. 2** is characterized in that, in control to retard ignition in order to heat the catalyst at an early time, as shown in **Fig. 3**, during a predetermined period kt1 beginning at a start of the engine, the ignition timing is sustained at an initial value instead of being retarded and, after the predetermined period kt1 beginning at a start of the engine, control to retard ignition is commenced. The predetermined period kt1 is a period, which begins at a start of the engine and ends when the intake pipe negative pressure Pm (or the negative pressure of the brake booster) decreases to a predetermined value kpm1. That is, the predetermined period kt1 begins at a start of the engine and ends when a state, in which a proper negative pressure of the brake booster can be assured, is attained.”

Claims 27-28 and 30-31 depended from (now canceled) elected claims 2 and 29, respectively, and define the predetermined time explicitly stated by former claims 2 and 29. Claims 27-28 and 30-31 are thus directed to at least the elected species of Figs. 2-3. This is confirmed by page 23, line 22 to page 24, line 12 (reproduced above) of the originally-filed specification.

Claims 32-33 are also clearly directed to at least the elected species of Figs. 2-3 as evident by page 24, lines 10-12 and page 28, line 4 to page 29, line 8 of the originally-filed specification.

Accordingly, Applicant respectfully requests a first examination of claims 27-28 and 30-33 on the merits. These claims are clearly directed to at least the elected species

of claims 2-3 and have been rewritten in independent form including all of the limitations of (now canceled) elected claims 2 and 29.

Claims 2 and 29 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Tsunooka (U.S. '524). Applicant respectfully traverses this rejection with respect to the still pending claims.

For a reference to anticipate a claim, each element must be found, either expressly or under principles of inherency, in the reference. Each element of the claimed invention is not found in Tsunooka. For example, the limitation "wherein the ignition retarding control means starts the ignition retarding control after a predetermined time lapses since a start, and the predetermined time represents a period of time beginning at a start of the engine and ending at a time that the negative pressure of the intake pipe reaches a predetermined value so that a proper negative brake force of the brake booster can be assured," as required by claim 27 is not found in Tsunooka. Similar comments apply to claim 30. The limitation "wherein the ignition retarding control means starts the ignition retarding control after a predetermined time lapses since a start, and the predetermined time represents a period of time beginning at a start of the engine and ending at a time that the negative pressure of the brake booster reaches a predetermined value so that a proper negative brake force of the brake booster can be assured," as required by independent claim 28 is not found in Tsunooka. Similar comments apply to claim 31.

As described, for example, on page 23, line 22 to page 24, line 12 of the specification, by starting an ignition retarding control after a predetermined time lapses, the predetermined time representing a period of time beginning at a start of an engine and ending at a time that the negative pressure of the intake pipe or brake booster reaches a

predetermined value, a proper negative pressure of the brake booster can be assured.

In Tsunooka, even if an ignition retarding is started after time t10 has lapsed since an engine start, the ignition retarding control is stopped to delay the retard timing by a predetermined time period (Fig. 4a, t12-t13) when it is determined that the negative pressure is insufficient. If brake negative pressure is insufficient, the retarding of the ignition timing is thus interrupted (Fig. 4a, t12-t13). Accordingly, time t10 clearly does not represent a time period in which the negative pressure of the intake pipe or the brake booster reaches a predetermined value. At time t10, a proper negative pressure of the brake booster is not assured as a result of the negative pressure of the intake pipe or brake booster reaching a predetermined value since Tsunooka explicitly discloses interrupting the retarding of ignition timing if the brake negative pressure is insufficient. In contrast, a lapsed predetermined time at which ignition retarding control is started in the present invention represents a time period at which the negative pressure of the intake pipe (claims 27 and 30) or the negative pressure of the brake booster (claims 28 and 31) reaches a predetermined level, thereby assuring that the negative pressure of the brake booster is sufficient when execution of the ignition retarding control is started.

Independent claim 32 requires, *inter alia*, “the method further comprises measuring a time period beginning at the start of the engine and ending at a time when the negative pressure of the intake pipe reaches a predetermined level, and storing the measured time period in a memory for later use as the predetermined time.” Independent claim 33 requires, *inter alia*, “the method further comprises measuring a time period beginning at the start of the engine and ending at a time when a negative pressure of a brake booster, which performs increasing the brake force of the brake, reaches a

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predetermined level, and storing the measured time period in a memory for later use as the predetermined time.” Tsunooka fails to disclose these limitations.

Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. §102 in view of Tsunooka be withdrawn.

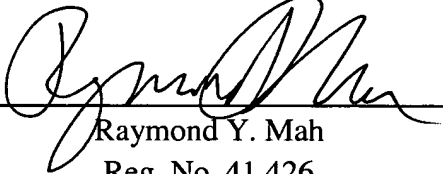
Conclusion:

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


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